

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

JAMES WHITAKER,

Plaintiff,

v.

MICHAEL J. ASTRUE, Commissioner of  
Social Security,

Defendant.

Case No. 3:12-cv-05591-BHS-KLS

REPORT AND RECOMMENDATION  
DENYING APPLICATION TO PROCEED  
IN FORMA PAUPERIS

Noted for August 3, 2012

This case has been referred to Magistrate Judge Karen L. Strombom pursuant to 28 U.S.C. § 636(b)(1) and Local Rule MJR 3 and 4. This matter comes before the Court on plaintiff's filing of an application to proceed *in forma pauperis* and a complaint to review and set aside a decision of the Social Security Administration under 42 U.S.C. § 405(g). Because plaintiff's application indicates he has sufficient income with which to pay the \$350.00 filing fee, the undersigned recommends that the court deny the application.

DISCUSSION

The district court may permit indigent litigants to proceed *in forma pauperis* upon completion of a proper affidavit of indigency. See 28 U.S.C. § 1915(a). However, the Court has broad discretion in denying an application to proceed *in forma pauperis*. Weller v. Dickson, 314 F.2d 598 (9th Cir. 1963), cert. denied, 375 U.S. 845 (1963).

By requesting the court to proceed *in forma pauperis*, plaintiff is asking the government to incur the filing fee because he allegedly is unable to afford the costs necessary to proceed with

1 his cause of action. In his application, plaintiff states he receives \$2,200.00 per month in  
2 pensions, annuities or life insurance payments. See ECF #1, p. 1. While the undersigned  
3 recognizes that this amount does not constitute a substantial income – and that plaintiff states all  
4 of it goes to covering his living expenses (see id., p. 2) – given that there are no other persons  
5 who are dependent upon plaintiff for support (see id.), it does not seem unreasonable to expect  
6 him to pay the required filing fee.  
7

### 8 CONCLUSION

9 Because it is reasonable for plaintiff to incur the costs to proceed with this cause of  
10 action, the undersigned recommends that the court deny his application to proceed *in forma*  
11 *pauperis*. Accordingly, the undersigned also recommends that the court order plaintiff to pay the  
12 required filing fee within thirty (30) days of the court's order.

13 Pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedures (“Fed. R.  
14 Civ. P.”) 72(b), the parties shall have **fourteen (14) days** from service of this Report and  
15 Recommendation to file written objections thereto. *See also* Fed.R.Civ.P. 6. Failure to file  
16 objections will result in a waiver of those objections for purposes of appeal. *Thomas v. Arn*, 474  
17 U.S. 140 (1985). Accommodating the time limit imposed by Fed. R. Civ. P. 72(b), the Clerk is  
18 directed set this matter for consideration on **August 3, 2012**, as noted in the caption.  
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20 DATED this 18th day of July, 2012.  
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24 Karen L. Strombom  
25 United States Magistrate Judge  
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